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OCT 22 2004

October 22, 2004

Federal Communication Commission
Bureau / Office

ERIC FISHMAN
202-828-1849

Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 Twelfth Street, SW
Room 5-A420
Washington, DC 20554

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OCT 22 2004

Federal Communications Commission
Office of the Secretary

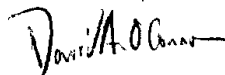
Re: Numbering Symposium
CC Docket No. 99-200

Dear Sir or Madam:

Pursuant to the Commission's Public Notice, DA 04-3207, released October 13, 2004, attached please find the written presentation of R. Jay Carpenter, President of 1-800-PHONWORD. Mr. Carpenter has advised the Commission of his intention to participate in the November 4 Numbering Symposium announced in the Public Notice.

Should the Commission have any questions regarding this written presentation, please feel free to contact the undersigned counsel directly.

Sincerely,



for Eric Fishman
Counsel to 1-800-PHONWORD and
Carpenter Investments

Attachment

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R. Jay Carpenter
Biographical Sketch

Mr. Carpenter has been actively involved in the telecommunications industry for over twelve years. He has developed successful services involving toll free numbers and is an active participant in several telecommunications industry associations:

- **12 years in Telecom** and Toll Free Shared Use Business; President of 1-800-PHONWORD
- **Responsible Organization for Administration of Toll Free Numbers-President of WARNING Communications, Inc.**
- **1-800 American Free Trade Association**-Founding board member
- **SNAC representative for 1-800 AFTA**-toll free numbering industry group that sets policy for toll free administration
- **SAG-TFO**-Alliance for Telecommunications Industry Standards-Strategic Advisory Group-Technology Forum Opportunities-Sub-committee that reviews emerging technologies and advises other ATIS committees regarding the Ordering and Billing impact these technologies could have on telecommunications operations.
- **ENUM Forum**-United States industry task force that is defining a deployment of RFC 3761 in the US, and potentially other countries within the North American Numbering Plan (NANP), in the e164.arpa domain.
- **VoIP Focus Group** for the ATIS-OBF. Subcommittee formed to investigate the impact of Voice over Internet Protocol on telecommunications ordering, billing and provisioning.
- **Masters of Business Administration**-University of Southern California
- **Bachelor of Science-Business Administration**-Arizona State University

Direct Answers to Agenda Questions (Relative to Toll Free Telephone Numbers):

1. Status of Current North American Numbering Plan (NANP)
Resources: Current number assignment policies and procedures.

a. Who gets numbers? How?

Current FCC rules and toll free numbering guidelines require Toll Free Telephone Numbers to be assigned on a first-come, first-serve basis. In practice, however, numbers that spell valuable phrases, repeat digits or have other value associated with them are often transferred without complying or without adhering to the intent of first-come, first-serve. Some numbers are purchased against current regulation (see SEC filings for 1-800-BROADWAY (Hollywood Media Corp. 10-K, Dec. 31, 2001, page 5 — “Our 1-800-BROADWAY number, which we purchased in October 2001”)) and 1-800-PETMEDS (Form 10-QSB, Sept. 30, 2002, page 5, Note 2: Intangible Asset, “In the second quarter of fiscal 2003, the Company obtained the rights to a toll free phone number for \$365,000.”)).

All publicly traded companies that might have acquired toll free numbers outside the sanctioned first-come, first-serve rules since 1997 face the prospect of having engaged in an illegal activity without disclosing this to their shareholders. For example, Southwest Airlines is currently receiving calls from 1-800-SOUTHWEST. The toll free number the company has primarily used for many years has been 1-800- I FLY SWA. If Southwest Airlines has recently acquired 1-800-SOUTHWEST by any other means than picking it up in the spare pool after it has been in a disconnect status

for four months, the company might have violated FCC rules governing the purchase of toll free numbers. If this is the case, Southwest Airlines' management has an obligation to its shareholders to disclose this violation of the FCC telecommunications directives.

Some numbers are directly transferred from subscriber to subscriber without returning to the spare pool as required by regulation (carrier comments made during SNAC calls). Numbers are also released to the spare pool in order to be immediately assigned to another subscriber that is apprised of the timing on the arranged release with intended immediate reassignment.¹

The reverse question "who does not get numbers and why not" should also be addressed. For example, Verizon is unable to acquire 1-800-VERIZON because the number was assigned some time ago to IBM (see *Request for Waiver by Matrix Communications Corp.; Toll-Free Number Administration*, Petition for Waiver—Expedited Action Requested, CC Docket No. 95-155 (filed Mar. 26, 2002)). Instead, Verizon uses the number "1-800-2 JOIN IN" as its marquee phone number. This results in millions of dollars of advertising that could be enhanced by the added brand impression "1-800-VERIZON" would make if Verizon were able to purchase the number from IBM. This is only one instance where anti-brokering regulation creates a great deal of economic harm.

¹ See December 6, 2000 letter of L. Charles Keller, Chief, Network Services Division, to Michael Wade, President, Database Service Management, Inc., 15 FCC Rcd 24053 (2000).

For a more complete presentation of the benefits associated with a market-based allocation approach to toll free numbers, see "Ensuring the Efficient Allocation of Toll Free Numbers-A Market-Based Approach" by Leslie Selzer, Common Carrier Bureau, FCC (Feb. 26, 2001). Also see "FCC Forum on Toll Free Number Administration," presentation of 1-800 American Free Trade Association by Mitchell Knisbacher and Jay Carpenter dated March 4, 2002 regarding policy surrounding market-based allocation of toll free numbers.

Toll Free Telephone Numbers are also available under shared use agreements for businesses that are not the end-user subscribers for a number but desire a particular toll free number for a specific region of coverage. Shared usage is beneficial in conserving numbers by having multiple businesses using one number instead of employing multiple less efficient toll free numbers.

b. In what quantities?

Toll Free Numbers can be assigned individually or in mass.

2. **Forecast of NANP Exhaust (NANPA)** What is the likelihood of NANP exhaust in the foreseeable future?

Toll Free Numbers currently have an expected exhaust target of sometime in 2007 to 2009, according to the latest SMS administration reports. This date has wide fluctuation and has changed within the last year from negative growth rates (exhaust time irrelevant) to positive growth rates (relatively short term exhaust).

Without incentive to return toll free numbers to the spare pool, optimize usage efficiency and transfer numbers to the highest and best user, toll free numbers will continue to be generally exhausted as a result of the lax first-come, first-serve policy. Assuming new technologies enhance the functionality, usefulness and therefore value of toll free numbers, the economic vector will increasingly deplete the toll free number supply. Anything of value that is not allocated by a market set price will be exhausted if available for the asking and the overall usage and service to society is likely to be less than optimal.

3. **Are there new sources of numbers or potential substitutes for NANP numbers (e.g., ENUM)?** Can they be used to provide new services and deploy new technologies?

Part of the beauty and promise of ENUM is how it will mesh with the existing numbering plan. ENUM holds the promise of bridging the PSTN with the IP network. This is a backward compatible technological progression that is not a new source of numbers or a potential substitute for NANP numbers. ENUM is designed to work with the latest cell phone, personal computer or equipment as old as a rotary dial telephone. VoIP will be deployed rapidly if it works seamlessly with the PSTN. ENUM is the key to integration of an analog centric PSTN with a digital centric Internet Protocol (IP) network. Instead of introducing a disruptive, destructive new numbering plan that may or may not be adopted by the public, ENUM will work in conjunction with existing and future telecommunications technologies.

ENUM promises to open up the supply of telephone numbers rather than consume even more telephone numbers. The efficient consolidation of services under one telephone number is a major part of ENUM's appeal. For example, if nothing else, ENUM will consolidate voice and fax services under one telephone number. At a minimum, companies will no longer need to have separate numbers for these services. This technological efficiency along with a market incentive to sell subscriber rights to a telephone number should greatly increase the supply of available numbers without the need to introduce new codes. ENUM is designed to encourage the consolidation of services such as voice, fax, data, e-mail, instant messaging, video, audio and other future services under a single electronic address.

Initially, companies that key off a single toll free number will find appeal in the enhancements offered by ENUM. An example of this promise is already reflected in 1-800-FLOWERS.com. This pioneer in the marriage of marketing and telecommunications gives us a glimpse into what ENUM can make available. By adding the .com to the end of 1-800-FLOWERS this company has consolidated the need to advertise a toll free number and a separate internet domain. ENUM will be even more seamless. ENUM will reduce the need for multiple telephone numbers within an enterprise because IP addresses will be used to subdivide the communications that enter a company via the front door telephone number. In other words, 1-800-FLOWERS will strengthen its service

offering by consolidating even more communication under the single telephone number and eliminate the need to have a separate customer service telephone number, affiliate florist telephone number, internal employee telephone number, *etc.*

If a new numbering scheme is introduced to usher in ENUM, it is likely to have the exact opposite impact and will result in slowing down the public's adoption of this new technology. Many numbering schemes have attempted to gain widespread acceptance in the past and failed. 700 and 500 dialing codes are examples. If ENUM is introduced as a backward compatible enhancement to what is already in place inside the numbering space, ENUM's deployment speed and probability of acceptance is increased. Attempting to educate the public regarding a new dialing pattern in conjunction with introducing new ENUM services and technology is likely to continue to stall or kill this initiative. Opening up the market to the transfer of subscriber rights to a number will be one step closer to assuring the success of ENUM and maintaining the global competitive edge held by the United States. If the introduction of ENUM involves businesses being asked to introduce a new dialing prefix like 1-500-WALGREENS while still operating 1-800-WALGREENS needless confusion and expense will be incurred.

4. New technologies and services that may require numbering resources: What are they? How are they provisioned?

- a.** Discussion of how new technologies and services might use NANP resources.

In all likelihood, the adoption of the new ENUM technology will follow the path of many historic innovations. First adopters will be businesses and then consumers will follow. For example, a company like Federal Express has ample incentive to provision their main toll free number 1-800-GO-FEDEX into ENUM. By combining the functionality of their toll free number and their website into a single ENUM, FedEx will be able to offer a richer set of services to their customers no matter how the customer connects with the company (wire-line, wireless, pc internet, fax, e-mail device etc.). After business applications become commonplace through toll free numbers, individuals will become familiar with the capabilities of ENUM and start to provision their personal phone numbers with the enhancements that ENUM makes available.

- b. What service and technologies are known to be under development today that might impact numbering and administration?

Internet Protocol Television (IP TV), Wi-Max, SIP and other technologies offer compelling services that fit the IP-centric ENUM realm. For example, most of the telecommunications and entertainment industry companies are looking to deliver what is known as a "Triple-Play". This term means delivering voice, video and data within the same bundle. Moving from analog to full digital transmission offers new features, functionality and services that cannot be fully described today. Only after the marketplace determines what is most

useful will it be clear what services are viable with the new technology. Entrepreneurial effort is the key to bringing forth all this new technology has to offer. A key part of fostering this benefit to our economy is allowing telephone number transaction structures for someone who has an idea for creating something new and valuable with a telephone number. For example, the ability of entrepreneurs to freely acquire internet domains like Amazon.com, Yahoo.com, Google.com, Ebay.com, and countless others played a key role in fostering new businesses that could not have been predicted ten years ago. Finding “killer” applications for ENUM is integrally tied to allowing telephone numbers, particularly toll free numbers, to trade in the marketplace. Continuing to capitalize on the strength of innovation, the hallmark of the United States, also requires lifting current restrictions preventing toll free numbers from finding the highest and best users.

5. Numbering resource optimization, new numbers and new uses of numbers: Making them work together.

a. Is there a “problem” that requires state, federal or NANC attention?

Anti-brokering restrictions and lack of registered subscriber rights to telephone numbers present the largest barrier to numbering resource optimization and telecommunications economic optimization. Anti-brokering rules that were formulated in an analog-centric and carrier-centric world decades ago are outdated. Today, we are in a rapidly changing digital centric and end-user subscriber-centric world where

the United States has fallen behind in terms of telecommunications technology deployment. The fastest and surest way for us to catch up is to allow entrepreneurial talent to work its magic on the existing supply of numbers. Any attempt to create new numbers (special NPAs for ENUM) will only cause a slow, confusing, uncertain and expensive process of trying to generate consumer acceptance of a new dialing pattern.

6. Next Steps.

By lifting the anti-brokering ban, the marketplace and unleashed entrepreneurial talent can optimize the usage of toll free numbers. Also, the Commission should take the positive regulatory step of bolstering subscriber rights in what is increasingly becoming a key component of today's business enterprise-the telephone number. With each new phase of telecommunication evolution including toll free portability, local number portability and wireless number portability, the end-user subscriber has effectively gained greater rights and vested interests in the telephone numbers being operated. Telephone number holders have acquired something akin to homestead rights in their numbers. It is time to recognize this reality and unleash the benefits that will come to all from formalizing end-user subscriber rights within telephone numbers (also see "Ensuring the Efficient Allocation of Toll Free Numbers-A Market-Based Approach" by Leslie Selzer, Common Carrier Bureau, FCC (Feb. 26, 2001)). By lifting anti-brokering rules so that efficient market-based

allocation can take place and by allowing the registration of subscriber rights in telephone numbers the Commission will enable the free market to naturally optimize and conserve the toll free numbering resource.

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